

REMARKS

This Amendment is responsive to the Office Action of December 11, 2007. Reconsideration and allowance of claims 1, 7, 8, 10, 11, and 18-23 are requested.

The Office Action

Claims 1, 3, 4, 7, 8, 10, 11, and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sylliassen (US 2002/0134474) in view of Shafer (US 5,386,247).

Claims 2, 16, 18, 20, and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sylliassen in view of Schafer, further in view of Stivorik (US 2007/0100666).

Claims 12, 13, and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sylliassen as modified by Shafer as further modified by Stivorik, and further yet modified by Gevins (US 2003/0013981).

Claims 14, 15, and 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sylliassen in view of Shafer, further in view of Stivorik, further yet in view of Hardt (US 4,928,704).

The Claims Distinguish Patentably Over The References of Record

Claim 1 calls for detecting brainwaves of a user and in response to detecting theta waves, at least one of reducing a volume, sound quality, image size, and image quality.

Further, claim 1 calls for switching the electronic device to one of off and a hibernation mode in response to detecting delta waves or an REM state.

None of the references of record teach or fairly suggest reducing the volume, sound quality, image size, or image quality in response to one type of brainwaves and switching the electronic device off or to a hibernation mode in response to detecting a different type of brainwaves.

Sylliassen as modified by Shafer merely suggests reducing the volume if there is no motion for a predetermined period. If the user does not move in response to reducing the volume, for a selected duration, then the electronic device is

switched off. Even if Stivoric were to render it obvious to start the reducing mode in response to brainwaves, which is traversed, such a combination still does not teach or fairly suggest starting the reducing mode in response to brainwaves of one type and turning the device off or to a hibernation mode in response to other brainwaves.

Gevins which shows that alpha and theta bands can be indicative of active or sleep states and Hardt which shows that a delta wave is indicative of deep sleep do not cure these shortcomings of Sylliassen, Shafer, and Stivoric. Accordingly, it is submitted that claim 1 and claims 7 and 17 dependent therefrom distinguish patentably and unobviously over the references of record.

Claim 8 calls for switching to a reduced power mode in response to determining a user is asleep and reducing one of volume, sound quality, image size, or image quality if the user is only probably asleep. Neither Sylliassen nor Shafer nor the other references of record teach or fairly suggest determining whether the user is asleep or probably asleep and based on the asleep determination entering a reduced power mode or based on the probably asleep determination entering a volume or image reducing mode. Accordingly, it is submitted that claim 8 and claims 10, 11, 18, and 22 dependent therefrom distinguish patentably and unobviously over the references of record.

Claim 19 calls for determining if a user is probably asleep by identifying a brainwave pattern that is indicative of at least one of relaxed with eyes closed, sleepy, already sleeping, or transition sleep and determining whether the user is asleep by identifying a brainwave pattern indicative of the user being in a deep sleep or REM sleep.

Moreover, claim 19 calls for reducing a sound volume, a sound quality, an image size, or an image quality in response to determining the patient is probably asleep and switching the device to a reduced power consumption mode in response to determining that the user is asleep.

By contrast, Sylliassen or as modified by Shafer merely suggests reducing sound volume if the user is believed to be asleep and switching the device off if the user fails to move to indicate a non-sleep state within a preset timeout period. That is, as combined by the Examiner, the combination of Sylliassen and Shafer determines the sleep state by the lack of action on the part of the user in

response to the diminution of the volume. There is no suggestion of making this determination based on brainwaves.

Although Stivoric suggests determining a probable sleep state based on brainwaves, there is no suggestion in Stivoric or the combination of Sylliassen, Shafer, and Stivoric of determining a probable sleep state based on one brainwave pattern and a sleep state based on a different brainwave pattern and using these two different patterns to decide to either enter the reducing mode or the hibernation mode. Gevins and Hardt which recognize that there are different types of brainwaves, do not cure this shortcoming of Sylliassen, Shafer, and Stivoric. None of the references of record teach or fairly suggest reducing a volume, sound quality, image size, or image quality based on detecting a first brainwave pattern and entering a reduced power consumption mode in response to identifying a second brainwave pattern.

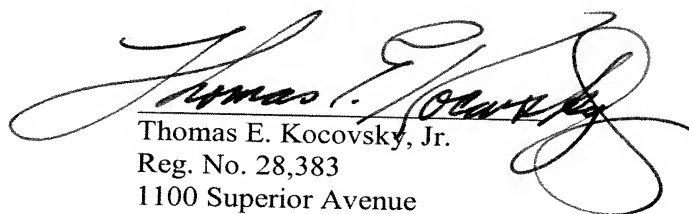
Accordingly, it is submitted that claim 19 and claims 20 and 21 dependent therefrom distinguish patentably and unobviously over the references of record.

CONCLUSION

For the reasons set forth above, it is submitted that claims 1, 7, 8, 10, 11, and 18-23 are now in condition for allowance. An early allowance of all claims is requested.

Respectfully submitted,

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A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the printed name and address.

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